

1 BILL NO. S-83-11-52

2 SPECIAL ORDINANCE NO. S-258-83

3 AN ORDINANCE approving Sanitary  
4 Sewer Extension Agreement for Roots  
5 Camp & Ski, 6844 N. Clinton, between  
6 the City of Fort Wayne, Indiana and  
7 Jack H. Root, in connection with the  
8 Board of Public Works.

9 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF  
10 THE CITY OF FORT WAYNE, INDIANA:

11 SECTION 1. The Sanitary Sewer Extension Agreement for  
12 Roots Camp & Ski, 6844 N. Clinton, between the City of Fort Wayne,  
13 Indiana and Jack H. Root, in connection with the Board of Public  
14 Works, is hereby ratified, and affirmed and approved in all re-  
15 spects. The work under said Agreement requires:

16 Roots Sanitary Sewer Extended - Sanitary  
17 Extension 5A - Commencing at an existing  
18 Manhole at Station 0 plus 00, said Manhole  
19 #5 on Fox Chase Run thence Northwesterly  
20 278 feet to Manhole #5A at Station 2 plus  
21 78. Said manhole 5A terminates the de-  
22 scription of Roots Sewer Extended;

23 no cost to the City is involved.

24 SECTION 2. Prior Approval was received from Council  
25 with respect to this Agreement on November 1, 1983. Two (2)  
26 copies of the Agreement attached hereto are on file with the City  
27 Clerk, and are available for public inspection.

28 SECTION 3. That this Ordinance shall be in full force  
29 and effect from and after its passage and any and all necessary  
30 approval by the Mayor.

31   
Councilmember

32 APPROVED AS TO FORM  
AND LEGALITY

  
Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Scruggs,  
seconded by Stier, and duly adopted, read the second time  
by title and referred to the Committee City Philks (and the City  
Plan Commission for recommendation) and Public Hearing to be held after  
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,  
Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATE: 11-22-83

Sandra E. Kennedy  
CITY CLERK

Read the third time in full and on motion by Scruggs,  
seconded by GiaQuinta, and duly adopted, placed on its  
passage. PASSED (~~lost~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>1</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>1</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>1</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>1</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>1</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>1</u>	_____	_____	_____	_____
<u>SCRUGGS</u>	<u>1</u>	_____	_____	_____	_____
<u>STIER</u>	<u>1</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>1</u>	_____	_____	_____	_____

DATE: 12-13-83

Sandra E. Kennedy  
- CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,  
Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)  
(APPROPRIATION) ORDINANCE (RESOLUTION) NO. S-258-83  
on the 13th day of December, 1983.

ATTEST:

(SEAL)

Sandra E. Kennedy

Ray A. Ebert

CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on  
the 14th day of December 1983, at the hour of  
1:00 o'clock P.M., E.S.T.

Sandra E. Kennedy

CITY CLERK

Approved and signed by me this 15th day of December  
1983 at the hour of 3 o'clock P.M., E.S.T.

Win Moses, Jr.

WIN MOSES, JR. - MAYOR

## S E W E R      E X T E N S I O N

THIS AGREEMENT, made in triplicate this 26<sup>th</sup> day of October 1983, by and between Jack H. Root, hereinafter referred to as "OWNER" and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, hereinafter referred to as "CITY," WITNESSETH: WHEREAS, the "OWNER" desires to construct a local sanitary sewer described as follows:

Roots Sanitary Sewer Extended

## Sanitary Extension 5A:

Commencing at an existing Manhole at Station 0 plus 00, said Manhole #5 on Fox Chase Run thence Northwesterly 278 feet to Manhole #5A at Station 2 plus 78. Said Manhole 5A Terminates the description of Roots Sewer Extended.

In accordance with plans, specifications and profiles heretofore submitted to and approved by "CITY" and now on file in the office of the Chief Engineer of the Water Pollution Control Engineering Department of "CITY" and known as the Sanitary Sewer Extension for Root's Camp 'N Ski as drawn by Turnbell Engineering Company dated Sept. 20, 1983 which plans, specifications, profiles are by reference incorporated herein and made a part hereof, which sewer will serve not only land in which the "OWNER" has an interest, but also in adjoining land areas and;

WHEREAS, the cost of construction of said sewer is represented to be \$3600.00.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

## 1. CONSTRUCTION OF SEWER

"OWNER" shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by "CITY" under private contract to be let within sixty (60) days after requisite "CITY" approval. All work and materials shall be subject to inspection by "CITY" and the right of "CITY" to halt construction if there shall be noncompliance therewith. Said sewer shall not be deemed completed and/or permanently connected into the sewer system of "CITY" until final acceptance by "CITY" and "CITY" shall accept sewage therefrom subject to such sewage service charges as may now or hereafter be regularly established by "CITY", and all further maintenance thereafter shall be borne by "CITY".



## 2. COST OF CONSTRUCTION

"OWNER" agrees to pay the entire cost and expense of construction of said sewer, in cash, including "CITY" engineering and inspection fees, and to hold "CITY" harmless from any liability for claims connected therewith.

## 3. AREA OF "OWNER"

Said sewer when accepted by the "CITY" will serve the following described real estate:

A Part of The Richardville Reserve INT 31IN R 13 E Allen County Indiana more particularly described as follows: Commencing at the Southwest corner of the Richardville Reserve thence Northeast: along the West line of said Reserve a distance of 3709.52 feet to a point of beginning; thence continuing Northerly along a line N250 19'E a distance of 153.63 feet; thence Easterly along a line N89<sup>0</sup> 20' W, a distance of 284.6 feet, thence Southerly along a line N 25<sup>0</sup> 15' E a distance of 154.10 feet; thence Westerly along a line N 89<sup>0</sup> 15' W a distance of 284.6 feet to a point of beginning.

As "OWNER" will pay for the cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made for the sewer by the present or future owners of said real estate except only as to such standard tap-in, inspection fees, and monthly sewage treatment charges as are customarily charged by "CITY" for connections to "CITY" sewer mains and the treatment of sewage therefrom.

## 4. AREA CONNECTION CHARGE

The area connection charges established by the city under the St. Joe Sanitary Interceptor Sewers Resolution No. 61-140-11 as recorded in Allen County Recorder's Office under 74-22909 are hereby made applicable for the net "Area of the Developer" as shown on Exhibit "A". The total area of the developer is 1 acre. The assessable acreage is 1.0 acres for residential purposes. The net assessment shall be 1.0 acre times \$475.00 per acre totaling \$475.00 payable in one installment of \$475.00. The Assessment shall be paid prior to start of construction of sewer extension shown on Exhibit "A".

## 5. BOND

This contract is subject to "OWNER" and/or his contractor furnishing a satisfactory Maintenance Bond for 25 percent of the value of the sewer which shall guarantee said sewer against defects for a period of one(1) year from the date of final acceptance of said sewer by "CITY".

## 6. LIMITATION ON USE

Said Sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors, or assigns, or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage to contaminated waste in accordance with City Municipal Code.

#### 7. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION

"OWNER," for himself, his successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "CITY" of any territory now or hereafter owned by him, as described in Article 3 herein, or hereafter served by said sewer or any extensions thereof.

If further consideration and to induce "CITY" to execute and ratify this contract, said "OWNER", for himself, his successors, and assigns, agrees by this contract to vest in "CITY" the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorized ordinance the said real estate described in Article 3 herein.

"OWNER" further agrees that any deeds, contracts, or other instruments of conveyance made by "OWNER", its successors or assigns transferring or conveying any interest in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article which provisions shall run with the land and the acceptance of the delivery of any such instruments from "OWNER", his successors and assigns by any grantee, vendee, or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

"OWNER" further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of City as hereinafter provided.

Any owner or owners of land which is now, or hereafter located outside the corporate limits of "CITY" who connect into the sewer constructed hereunder shall be deemed to thereby waive his, her, their, or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "CITY" of such land or of the territory in which it is located or of the area served by said sewer, (I.C. 36-9-22-2 as added by Acts 1981, P.L. 309,395)

#### 8. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly appointed Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and year first above written.

BOARD OF PUBLIC WORKS

BY: Stephen A. Bailey  
Stephen A. Bailey, Chairman

BY: Betty R. Collins  
Betty Collins, Member

BY: Jack S. Wilson, Jr.  
Jack S. Wilson, Member

Jack H. Root

BY: Phyllis Root VanRyn

Jack H. Root Owner by  
Phyllis Root VanRyn-Attor  
In-Fact

"CITY"

MAYOR

BY: Win Moses, Jr.  
Win Moses, Jr.

ATTEST:

Helen V. Gochenour  
Helen V. Gochenour, Clerk

APPROVED AS TO FORM AND LEGALITY:

R. L. Moulton

STATE OF INDIANA ATTORNEY

COUNTY OF ALLEN:

his lawful  
Attorney-In-Fact

Before me, the undersigned, a Notary public in and for said  
County and State, personally appeared <sup>Jack H. Root by</sup> Phyllis Root VanRyn,  
who acknowledged the execution of the foregoing agreement for  
sewer extension, as and for their voluntary act and deed for the  
uses and purposes therein contained.

WITNESS my hand and notarial seal this 18th day of October  
19 83.

Janet Garner  
Notary Public Janet Garner  
Resident of Allen County

My Commission Expires:

5/13/87

STATE OF INDIANA

COUNTY OF ALLEN:

Prepared By: C. Duane Embury, Chief Engineer  
Water Pollution Control



Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Win Moses, Jr., Mayor, City of Fort Wayne, Indiana, and Stephen A. Bailey, Chairman, Board of Public Works, and Betty R. Collins and Jack S. Wilson, Members, respectively, of the Board of Public Works, and acknowledged the execution of the foregoing Agreement for Sewer Extension, as and for the uses and purposes therein contained.

WITNESS my hand and Notarial Seal this 26<sup>th</sup> day of October, 1983.

Thelma A. Morris  
Thelma A. Morris

NOTARY PUBLIC

Resident of Allen County

My Commission expires:

8/2/87

This instrument prepared by  
Michael Byerley

BILL NO. S-83-11-52

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN  
ORDINANCE approving Sanitary Sewer Extension Agreement for Roots  
Camp & Ski, 6844 N. Clinton, between the City of Fort Wayne, Indiana  
and Jack H. Root, in connection with the Board of Public Works 11/1/83

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

VICTURE L. SCRUGGS, CHAIRMAN

*Victure Scruggs*

SAMUEL J. TALARICO, VICE CHAIRMAN

*Samuel J. Talarico*

DONALD J. SCHMIDT

*D Schmidt*

MARK E. GIAQUINTA

*Mark E. Giaquinta*

PAUL M. BURNS

*Paul M. Burns*

*Concurred  
12-13-83*



TITLE OF ORDINANCE San. Sewer Extension Agreement For Roots Camp & Ski,  
6844 N. Clinton

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

SYNOPSIS OF ORDINANCE This is an agreement between the City of Fort Wayne  
and Jack H. Root. This san. sewer extension is more specifically  
described below:

Roots San. Sewer Extended - San. Extension 5A - Commencing at an  
existing Manhole at Station 0 plus 00, said Manhole #5 on Fox Chase  
Run thence Northwesterly 278 feet to Manhole #5A at Station 2 plus 78.  
Said manhole 5A terminates the description of Roots Sewer Extended.

PRIOR APPROVAL RECEIVED 11/1/83

EFFECT OF PASSAGE Improved sewer conditions at the above.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) No cost to City.

ASSIGNED TO COMMITTEE